

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNY MUÑOZ, *et al.*,

Defendants.

No. 11-CR-1065-MV

MEMORANDUM OPINION AND ORDER


THIS MATTER comes before the Court on Defendant Axcel Barrera-Muñoz’s letter [Doc. 141] regarding his Unadjudicated Motion for Return of Property [Doc. 25]. In this letter, Defendant indicates that he “had pending a Motion for Return of Property for the return of the tractor seized in this case. Since the Court has never ruled on the said motion, I am hereby, respectfully, requesting a status update on my motion.” Doc. 141 at 1 (phrasing original).

As an initial matter, the Court notes that it believes that the disposition of this case by the Defendants’ entry of guilty pleas mooted the motions pending before it. Moreover, even if the Motion were still pending, the Motion would be improperly before the Court. The federal government initiated administrative forfeiture proceedings against the vehicle; an adequate remedy was available under the statute and therefore a collateral request for return of property is inappropriate. *See generally* Doc. 41. *See also In re Seizure of Approximately \$785,000.00 in U.S. Currency and Other Property*, No. 09–MC–422–SAC, 2009 WL 3095332, at *2 (D. Kan. Sept. 23, 2009); Fed. R. Crim. P. 41(g).

CONCLUSION

Because the statute providing for administrative forfeiture afforded Defendant an avenue to contest the forfeiture of the tractor, this Court will not entertain a motion for return of property. Thus, to the extent that the Motion has not already been denied, **IT IS THEREFORE ORDERED** that the Defendant's request [Doc. 141] is **DENIED**.

Dated this 31st day of March, 2015.



MARTHA YÁÑEZ
UNITED STATES DISTRICT JUDGE